

FINAL TEXT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Title 15. Crime Prevention And Corrections

Division 2. Board of Prison Terms

Chapter 3. Parole Release

Article 3. Prisoner Rights

§ 2253. Postponements, Continuances, and Stipulations of Unsuitability.

(a) General. The rights and interests of all persons properly appearing before a board hearing are best served when hearings are conducted as scheduled. Occasional circumstances may require the postponement or continuance of a scheduled hearing. It is the intention of the board to recognize the need and desirability to occasionally continue or postpone a scheduled hearing and to avoid the inconvenience and cost which occurs when hearings are continued or postponed at or near the time at which they are scheduled.

(b) Postponements. A prisoner may request a postponement for any reason. Requests for postponements may be granted for good cause including, but not limited to, the prisoner having pending litigation, insufficient time to prepare, or insufficient time to accumulate necessary documents to present to the panel. Requests for postponements shall be in writing and shall state the reason for the request.

(1) A request for postponement should be made at the earliest possible date that the prisoner becomes aware of the circumstances leading to the request, but no later than 10 working days prior to the scheduled hearing. Such requests shall be considered by the department unless the board has notified the department of the board's need to consider the request. A request timely made in conformance with the above schedule shall be presumed to be valid unless good cause to the contrary is shown. The number and circumstances of any past postponements, continuances, or stipulations of unsuitability are relevant factors in considering whether to deny a request for postponement. Staff shall reschedule the postponed case at the earliest date consistent with the request, the availability of the hearing panel, and the need to provide appropriate notice to affected parties.

(2) A request submitted less than 10 working days prior to the scheduled hearing shall be considered by the board. Such request shall be presumed to be invalid unless the reasons given were not or reasonably could not have been known prior to 10 working days before the scheduled hearing. In order to avoid cost and inconvenience to properly appearing parties, the board may take the testimony of such parties at the time previously scheduled. The prisoner making such an untimely request shall be deemed to have waived his or her right to be present at such statement, unless said prisoner requests and the board grants his or her request to be present. A postponed hearing shall be rescheduled at the convenience of the board, but at a time not to exceed two years unless the prisoner's last

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appearance before the board resulted in the resetting of a subsequent hearing of less than two years, in which case the hearing shall be rescheduled at a time no greater than that period. The prisoner and the board may agree to any other appropriate time periods.

(c) Continuation of any hearing. A prisoner may request a continuance after the commencement of the hearing for good cause which was unknown, or reasonably could not have been known prior to the commencement of the hearing.

(1) In considering a request for a continuance, the board shall weigh the reasons for the request, the need for the continuance, any inconvenience to the board, department, District Attorney's Office, or victim's next of kin, and determine what will best serve the interests of justice. If the board grants the request for continuance, it shall attempt to impanel the same members when the hearing is reconvened. However, in requesting a continuance, the prisoner shall be deemed to have stipulated that the board may, in its discretion, reconvene a new panel and commence a new hearing.

(d) Stipulations of Unsuitability. A prisoner may stipulate to being unsuitable for parole at or before any hearing except the Initial Parole Hearing. An offer to stipulate to unsuitability at the Initial Parole Hearing shall be deemed a request for a postponement of that hearing.

(1) Offers to stipulate to unsuitability shall be submitted in writing, shall state the reasons that support unsuitability and the suggested period until the next hearing. The prisoner shall sign the offer. Offers to stipulate to unsuitability shall be submitted to and decided by the board as early as possible.

(2) If an offer to stipulate to unsuitability is submitted within 10 days of the time of hearing, reasonable efforts shall be made to determine if it should be accepted in sufficient time to vacate the scheduled hearing and notify affected parties. If the hearing cannot be vacated in sufficient time, the offer to stipulate to unsuitability shall be considered by the board at the time of hearing. The representative of the District Attorney's Office, and any victim or victim's next of kin present for the hearing shall be notified of, and given an opportunity to comment on the offer to stipulate to unsuitability.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 1170.2 and 3041.5, Penal Code.